

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF GEORGIA**  
**STATESBORO DIVISION**

FILED  
U.S. DISTRICT COURT  
SAVANNAH DIV.

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SO. DIST. OF GA.

JOHN JUNIOR CISSON, )

Petitioner, )

v. )

Case No. CV606-095

RALPH KEMP, Warden, )

Respondent. )

**REPORT AND RECOMMENDATION**

Petitioner filed the instant 28 U.S.C. § 2254 petition on October 19, 2006, challenging his 2003 conviction for child molestation in the Bulloch County Superior Court. Doc. 1. Petitioner seeks to proceed *in forma pauperis*. Docs. 2, 4. Because petitioner has demonstrated that he is unable to pay the filing fee, leave to proceed IFP is GRANTED. However, because it appears from the face of his petition that petitioner has failed to exhaust available state remedies, the petition should be summarily DISMISSED without prejudice.

Under 28 U.S.C. § 2254(b)(1)(A), “[a]n application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has

exhausted the remedies available in the courts of the State.” See O’Sullivan v. Boerckel, 526 U.S. 838, 839 (1999) (“Federal habeas relief is available to state prisoners only after they have exhausted their claims in state court.”). A state prisoner is required to allow the state court an opportunity to correct a constitutional error “by invoking one complete round of the State’s established appellate review process” before a federal court may consider the case. Id. at 845.

Here, petitioner concedes that he has filed neither a direct appeal of his conviction nor a state petition for a writ of habeas corpus. Petitioner therefore has deprived the state courts of a fair opportunity to address his claims before bringing his petition to this Court. Accordingly, it is recommended that the instant petition be DISMISSED without prejudice for failure to exhaust state remedies, so that petitioner may pursue the appropriate remedies in state court.

**SO REPORTED AND RECOMMENDED this 27<sup>th</sup> day of November, 2006.**

  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA